

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6793

Petition of Town of Stowe Electric Department for a )  
certificate of public good, pursuant to 30 V.S.A. Section )  
248, to expand an existing substation, relocate a 34.5 kV )  
transmission line, and remove an existing substation in )  
the Town of Stowe, Vermont, for the purpose of )  
upgrading electric service to Stowe Mountain Resort and )  
the surrounding area )

Hearings at  
Montpelier, Vermont  
March 10, 2003

Order entered: 5/5/2003

PRESENT: Wayne L. Foster, hearing Officer

APPEARANCES: William B. Piper, Esq.  
Primmer & Piper, P.C.  
for Town of Stowe Electric Department

James Volz, Esq.  
for Vermont Department of Public Service

Warren T. Coleman, Esq.  
for Vermont Agency of Natural Resources

**I. INTRODUCTION**

This case concerns a petition filed by the Town of Stowe Electric Department ("Stowe") on December 11, 2002, and a supplemental filing of additional material on January 2, 2003, requesting a certificate of public good ("CPG") authorizing (1) the retirement and removal of the existing 34.5 kV/4 kV Spruce Substation, (2) the expansion of the existing 34.5 kV/12.47 kV Lodge Substation, and (3) the relocation of approximately 2400 feet of existing 34.5 kV transmission line, all located in the Town of Stowe, Vermont.

On March 6, 2003, a public hearing was held in Stowe, Vermont. Notice of the public hearing was sent to all parties and interested persons on February 10, 2003. In addition, notice of

the public hearing was published in "The Stowe Reporter" on February 13 & 20, 2003. The public hearing was held as scheduled in the Banquet Room, located on the lower level of the Akeley Memorial Building, 67 Main Street, Stowe, Vermont. Also, on March 6, 2003, a site visit was held at 3:30 p.m.

Notice of the technical hearing was sent on February 20, 2003, to all parties specified in 30 V.S.A. § 248 and all other interested parties. A technical hearing was held as scheduled on March 10, 2003, at 1:00 p.m. at the Public Service Board Hearing Room, Third Floor, Chittenden Bank Building, 112 State Street, Montpelier, Vermont. No one appeared in opposition to the petition and substantial evidence was presented in support of the petition.

On March 10, 2003, Stowe, the Vermont Department of Public Service ("DPS"), and the Agency of Natural Resources ("ANR") submitted a Memorandum of Understanding ("MOU") in which the parties agreed that the Board should issue a CPG with specific conditions as described in the MOU (see exh. Joint-1). The MOU is conditioned upon Board approval.

The DPS filed a Determination under 30 V.S.A. § 202(f) on March 12, 2003.<sup>1</sup>

## **II. FINDINGS**

### **Introduction**

Based upon the substantial evidence of record and the testimony presented at the hearing, I hereby report the following findings to the Board in accordance with 30 V.S. A. § 8.

1. Stowe is a company as defined by Section 201 of Title 30, Vermont Statutes Annotated, and as such is subject to the Vermont Public Service Board's ("Board") jurisdiction pursuant to Section 203 of Title 30. Pet. at 1.

2. Stowe's offices are located at 394 Mountain Road, P.O. Box 190, Stowe, VT, 05672. Pet. at 2.

3. Stowe owns and operates the electric transmission and distribution system in the Town of Stowe, Vermont, including electric facilities at the Stowe Mountain Resort ("SMR"). Pet. at 3.

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1. The Determination under 30 V.S.A. § 202(f) will be admitted into the record as exh. Stowe-3, unless a party objects to its admission in its comments on this Proposal for Decision. If an objection is received, it will be ruled upon forthwith.

4. Stowe's system presently provides electric service to SMR via two substations: the 34.5/12.47 kV Lodge Substation and the 34.5/4 kV Spruce Substation. Pet. at 4.

5. SMR has requested that Stowe relocate existing distribution and transmission facilities within and adjacent to the SMR property in order to accommodate future expansion plans referred to as the "Spruce Hamlet Development." SMR has Act 250 approval for Spruce Hamlet and intends to begin construction in the spring of 2003. Machia pf. at 2-3.

6. The proposed project for which a CPG under 30 V.S.A. § 248 is sought has four main components:

- (1) the expansion of the existing Lodge Substation to accommodate the addition of new electrical equipment (34.5 kV/12.47 kV transformer and a capacitor bank), plus various other associated equipment;
- (2) the re-routing of approximately 2400 feet of 34.5 kV transmission line from the existing snowmaking pond near the ski dorm off Route 108 to the Stowe Mountain Resort. The subject transmission line will be re-routed to the western side of Route 108 along the existing 4.16 kV distribution circuit right-of-way. A portion of this proposed rerouted line will be placed underground;
- (3) the rebuild and conversion of existing 4.16 kV distribution line to 12.47 kV distribution line. The new distribution line will be constructed on the same poles as the proposed transmission line. A portion of this distribution line will also be placed underground. (As this is distribution plant, approval for this component is not sought in the subject petition.); and
- (4) the retirement and removal of the Stowe Spruce Substation.

Machia pf. at 3; exh. SED-BEM-1.

#### **Orderly Development of the Region**

[30 V.S.A. § 248(b)(1)]

7. The proposed project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of municipal legislative bodies, and the land

conservation measures contained in the plan of any affected municipality. This finding is supported by Findings 8 and 9, below.

8. The proposed project involves upgrading of an existing substation and related facilities and the use of existing electrical corridors. Furthermore, the proposed design allows for placement of lines underground where access and visibility warrant. Machia pf. at 4.

9. Stowe notified both the Lamoille County Planning Commission ("LCPC") and the Town of Stowe Planning Commission of the proposed project. Both commissions waived the 45-day notice provision of § 248 and raised no objections to the proposed project. In addition, LCPC found that the proposed project does not trigger any of the significant regional impact criteria and conforms with the 2002-2007 Lamoille County Regional Plan. Machia pf. at 4; exh. SED-BM-2 & 3.

#### **Need For Present and Future Demand for Service**

[30 V.S.A. § 248(b)(2)]

10. The proposed project is required to meet the need for present and future demand for service which could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy efficiency and load management measures. This finding is supported by Findings 5 and 11 through 13, below.

11. The proposed project is necessary because the current system cannot reliably serve the present and future electric service needs of SMR, the load located at Mount Mansfield summit (public safety and television), the existing area residential and commercial loads, plus the projected load resulting from the new Spruce Hamlet development. Machia pf. at 2-3, 5.

12. The need for this proposed upgrade could not be avoided through demand-side management measures. The proposed upgrade would be required even with no additional area load. In addition, projected new development load will exceed any load reductions that could be achieved through energy conservation, efficiency and load management measures. Machia pf. at 5.

13. Stowe has pursued DSM potential through retrofit and fuel switching programs, implemented energy efficient construction standards for SMR, and other 'lost opportunity'

programs throughout its service territory. In addition, Stowe and SMR have implemented cost-effective energy-efficiency projects at existing SMR facilities. Machia pf. at 8-9.

**System Stability and Reliability**

[30 V.S.A. § 248(b)(3)]

14. The proposed project will not adversely affect system stability and reliability and, in fact, will enhance system reliability. This finding is supported by findings 5 and 6, above, and findings 15 and 16, below.

15. The proposed project will have no effect on system stability. Machia pf. at 5.

16. The proposed relocation and substation upgrade will improve system reliability by improving power quality, reducing the risk of outages and providing the added system capability to allow reliable service to be provided to the new Spruce Hamlet development. Machia pf. at 5.

**Economic Benefit to the State**

[30 V.S.A. § 248(b)(4)]

17. The proposed project will result in an economic benefit to the State. This finding is supported by findings 18 through 21, below.

18. The proposed project is a result of the upcoming expansion of the Stowe Mountain Resort. Such expansion will result in an economic benefit to the State and local community. Machia pf. at 5.

19. The proposed project consists of a transmission portion (for which a CPG is sought in this docket) and a distribution portion (for which no Board approval is required). SMR will pay all costs for the transmission portion of the proposed project. Allocation of all costs is set forth in Attachment 1 of the MOU. Machia pf. at 6,11 & 12; exh. Joint-1.

20. To reduce Stowe's future operating costs, as related to the proposed new transformer in the expanded Lodge Substation, Stowe will utilize the no-load loss multiplier, load loss multiplier and cost multipliers as shown on Attachment 2 of the MOU, when requesting quotes from vendors. Exh. Joint-1.

21. Stowe shall receive payment from SMR in advance for any portion of the proposed project for which SMR is financially responsible. Exh. Joint-1.

**Aesthetics, Historic Sites, Air and**  
**Water Purity, the Natural Environment and Public**  
**Health and Safety**

[30 V.S.A. § 248(b)(5)]

22. The proposed project will not have an undue adverse affect on aesthetics, historic sites, air and water purity, the natural environment and the public health and safety. This finding is supported by findings 23 through 66, below, which are based on the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8), 8(A) and (9)(K).

**Outstanding Resource Waters**

[10 V.S.A. § 1424a(d)]

23. No outstanding water resources have been designated by the Vermont Water Resources Board in the area of the proposed project; therefore, the proposed project will have no impact on any such resources. Nelson pf. at 3-4.

**Water and Air Pollution**

[10 V.S.A. § 6086(a)(1)]

24. The proposed project will not result in undue water or air pollution. The finding is supported by findings 26 through 45, below.

25. The proposed project will not result in unreasonable air pollution because there will be no emissions from the proposed project. Any air pollution will be limited to normal truck and equipment exhaust and will be of short duration. Machia pf. at 7.

26. The West Branch of the Waterbury River (West Branch) and its associated tributaries, in the Town of Stowe, Vermont, are located in the vicinity of the proposed project. Nelson pf. at 4.

27. Stowe's water quality and stream protection/management consultant studied the potential water pollution impacts of the proposed project with respect to both the temporary impacts resulting from construction activities and long-term impacts resulting from the ongoing operation/maintenance of the proposed project. Nelson pf. at 4-5; exh. SED-JN-3 & 4.

28. The proposed transmission upgrade will occur along the existing utility corridor, with minor ground disturbance. The proposed construction will be of short duration (approximately

6 weeks) during the summer when dry conditions prevail. Special measures will be utilized to avoid disturbance of flowing streams. As a result, any temporary impacts due to the proposed construction will not result in undue water pollution. Nelson pf. at 5.

29. Since the proposed project involves the upgrade of an existing corridor, which will not be widened, very little clearing will be necessary and there will be no significant changes to existing conditions and management practices. As a result, long-term operation and maintenance of the proposed project will not result in undue water pollution. Nelson pf. at 5.

#### **Headwaters**

[10 V.S.A. § 6086(a)(1)(A)]

30. The proposed project area is considered headwaters. Nelson pf. at 6.

31. Review and analysis of the proposed project with regard to the headwaters criterion (waters flowing on land above 1500 feet elevation or watersheds of 20 square miles or less) has concluded that the proposed project does comply with applicable regulations and will not have an undue adverse impact on any headwaters. Nelson pf. at 6.

#### **Waste Disposal**

[10 V.S.A. § 6086(a)(1)(B)]

32. The proposed project, as designed, will meet any applicable health and environmental conservation regulations regarding the disposal of wastes, and will not involve the injection of waste materials or any harmful toxic substances into the ground waters or wells. This finding is supported by findings 33 through 37, below.

33. The proposed relocation of the subject transmission line and proposed substation expansion will follow standard protocol for construction and oil containment. Machia pf. at 12.

34. The proposed expansion of the Lodge Substation will include the construction of an oil containment pit, capable of collecting oil in the unlikely event of an oil leak or spill. Machia suppl. pf. at 2; exh. SED-BM-SUPP-7.

35. The proposed project will not involve a potable water supply. Machia pf. at 12.

36. All trees that must be cleared will be either chipped and spread onto the corridor or removed from the site. Stumps will be disposed of off site. Machia pf. at 13.

37. At the site of the existing Spruce Substation, which is proposed to be retired and removed, Stowe intends to retain a firm to collect soil samples and conduct tests to determine if any contaminants exist on the substation site and, if necessary, develop a remediation plan to restore the site for other uses. Machia suppl. pf. at 4.

### **Discussion**

As the above finding shows, Stowe will have the Spruce Substation site tested to determine if there are any contaminants to be disposed of and, if so, develop a plan for such disposal and site restoration. Otherwise, no evidence was presented indicating how the facilities at the Spruce Substation site will be disposed of and the site restored. As a result, the CPG should include a condition requiring that Stowe submit to the Board (1) the results of the contamination testing, (2) the plan for disposal of all equipment at the site and (3) the plan for restoration of the site, including any remediation, if necessary, and that the remediation plans be implemented prior to the use of this site for other purposes.

### **Water Conservation**

[10 V.S.A. § 6086(a)(1)(C)]

38. The proposed project uses no water. Machia pf. at 12.

### **Floodways**

[10 V.S.A. § 6086(a)(1)(D)]

39. The only mapped 100-year floodway near the proposed project is the West Branch, as designated on the National Flood Insurance Map of the Town of Stowe. The only part of the proposed project within the floodway is a portion of the subject transmission line. No regrading will occur within this area and poles are proposed to be placed near locations of existing poles. As a result, the proposed project will cause no restriction of floodwaters, endangerment or increase in peak discharge. Nelson pf. at 7.

### **Streams**

[10 V.S.A. § 6086(a)(1)(E)]

40. The proposed project will be constructed to minimize the impact on streams. No poles will be placed in stream channels, no channels will be altered and there will be no significant



expansion or modification of clearing. The proposed project will maintain the natural condition of the streams. Nelson pf. at 8.

41. Stowe has prepared an Erosion Prevention and Sediment Control Plan in conformance with the ANR's "Erosion and Sediment Control Plan Checklist". No construction of the proposed project will commence without approval of this plan by ANR. Exh. Joint-1; exh. Stowe-5.<sup>2</sup>

#### **Shorelines**

[10 V.S.A. § 6086(a)(1)(F)]

42. The proposed project will not be located near any shorelines. Nelson pf. at 9.

#### **Wetlands**

[10 V.S.A. § 6086(a)(1)(G)]

43. The Water Resources Board's Vermont Wetland Rules establish three tiers of wetlands, which are designated Class I, II and III. Class I and II wetlands are protected under the Rule. Severson pf. at 3.

44. There are no significant Class I or Class II wetlands in the vicinity of the proposed project. All wetlands adjacent to the proposed project are Class III wetlands, which are not regulated under the Vermont Wetland Rules. Severson pf. at 3.

45. The only impacts to the Class III wetlands will occur during the proposed construction, where they must be crossed with vehicles to remove poles and equipment from the discontinued route segments and to install the proposed new lines and poles. To minimize any such impacts, these areas will be crossed during the driest times of the year or when the ground is frozen. Severson pf. at 4.

#### **Sufficiency of Water And Burden on**

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2. The Erosion Prevention and Sediment Control Plan, dated March 10, 2003, will be admitted into the record as exh. Stowe-5, unless a party objects to its admission in its comments on this Proposal for Decision. If an objection is received, it will be ruled upon forthwith.

**Existing Water Supply**

[10 V.S.A. § 6086(a)(2)&(3)]

46. Since the proposed project uses no water, it will not draw down on any existing water supply. Machia pf. at 12.

**Soil Erosion**

[10 V.S.A. § 6086(a)(4)]

47. The proposed project as designed will not result in unreasonable soil erosion or reduce the ability of the land to hold water. This finding is supported by findings 41, above, and 48 through 51, below.

48. Through scheduling and control procedures during the proposed construction, soil disturbance will be minimized. Machia pf. at 13.

49. Tree removal will be performed in a manner that will minimize damage to remaining vegetation. Removed trees will be chipped or removed from the site. Machia pf. at 13.

50. Buried infrastructure will be done in a manner that minimizes tree clearing and avoids severe grades. Excavation will be backfilled daily. Machia pf. at 13.

51. Underground conduit and equipment termination vaults already exist in some areas, such as under State Route 108 and the Mansfield parking lot, resulting in no excavation being needed for installation of proposed underground facilities in these areas. Tr. at 17.

**Traffic**

[10 V.S.A. § 6086(a)(5)]

52. The proposed project will not cause unreasonable congestion or unsafe conditions with respect to transportation systems, in that the only such impact from the proposed project will be a minor temporary one where some construction vehicles may be in the area. Machia pf. at 13.

**Educational Services**

[10 V.S.A. § 6086(a)(6)]

53. The proposed project will not require any educational services. Machia pf. at 13.

**Municipal Services**

[10 V.S.A. § 6086(a)(7)]

54. The proposed project will not require municipal services. Machia pf. at 13.

**Aesthetics, Historic Sites or Rare  
And Irreplaceable Natural Areas**

[10 V.S.A. § 6086(a)(8)]

55. The proposed project will not have an undue adverse effect on the scenic or natural beauty of the area, or upon aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 56 through 62, below.

56. There are no known rare and irreplaceable natural areas that will be affected by the proposed project. Exh. SED-DR-1.

57. The enlarged Lodge Substation will have limited, if any, visual impacts. It will be adequately screened by existing vegetation, even after the removal of some trees to accommodate the expansion. Raphael pf. at 6; Machia suppl. pf. at 2; exh. SED-DR-1; exh. Stowe-5.

58. The proposed upgraded line extending north from the Lodge Substation will follow an existing right-of-way parallel to State Route 108 and is separated from the highway by a vegetative buffer, which adequately screens the corridor, poles and wires. Raphael pf. at 6; exh. SED-DR-1.

59. Portions of the proposed project will be located underground, thus eliminating any aesthetic concern. Raphael pf. at 6; exh. SED-DR-1.

60. The retirement and removal of the Spruce Substation will be an aesthetic improvement. Raphael pf. at 7.

61. Stowe's aesthetic consultant concluded that the proposed project will not have an undue, adverse effect on aesthetics. Raphael pf. at 5.

62. The proposed project will not have an undue adverse effect on any historic or archeological sites that may be eligible for the State or National Registers of Historic Places. Raphael pf. at 7; exh. Stowe-4.<sup>3</sup>

### **Discussion**

Based on the above findings, I find that this proposed project will not have an undue adverse effect on the aesthetics or scenic and natural beauty of the area. In reaching this conclusion, I have relied on the Environmental Board's methodology for determination of "undue" adverse effects on aesthetics and scenic and natural beauty as outlined in the so-called Quechee Lakes decision. Quechee Lakes Corporation, #3W0411-EB and 3W0439-EB, dated January 13, 1986.

As required by this decision, it is first appropriate to determine if the impact of the project will be adverse. The proposed project would have an adverse impact on the aesthetics of the area if its design is out of context or not in harmony with the area in which it is located. If it is found that the impact would be adverse, it is then necessary to determine that such an impact would be "undue." Such a finding would be required if the proposed project violates a clear written community standard intended to preserve the aesthetics or scenic beauty of the area, if it would offend the sensibilities of the average person, or if generally available mitigating steps will not be taken to improve the harmony of the project with its surroundings. The Board's assessment of whether a particular project will have an "undue" adverse effect based on these three standards will be significantly informed by the overall societal benefits of the project.<sup>4</sup>

Given the facts of this case, it would be difficult to find that this project would have an adverse effect on the aesthetics of the area because of the limited nature of the proposal, the fact that it will be located entirely within an existing right-of-way, the fact that the existing substation and right-of-way are adequately screened, and the fact that the project will improve area aesthetics by undergrounding some portions of the line and the removal of the Spruce Substation.

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3. A letter, dated March 10, 2003, from the Vermont Division for Historic Preservation will be admitted into the record as exh. Stowe-4, unless a party objects to its admission in its comments on this Proposal for Decision. If an objection is received, it will be ruled upon forthwith.

4. Consider, for example, reduction in need for power plant or transmission investments, or other societal costs.

**Necessary Wildlife Habitat and****Endangered Species**

[10 V.S.A. § 6086(a)(8)(A)]

63. There are no known endangered species within the proposed project limits. Machia pf. at 14.

64. The proposed project does not appear to destroy or significantly imperil any wildlife habitat. Machia pf. at 14; exh. SED-BM-4.

65. Stowe will prepare a Habitat Enhancement and Vegetation Management Plan in conjunction with the Department of Fish and Wildlife to enhance the ability of black bears and other wildlife to move securely through the proposed project's line corridor that is on the west side of State Route 108 and south of the entrance to the Smuggler's Notch State Campground. Stowe will complete that Plan no later than December 31, 2003. Exh. Joint-1.

**Development Affecting Public Investments**

[10 V.S.A. § 6086(a)(9)(K)]

66. The proposed project will have no negative impact on any governmental or public facilities, therefore, it will not unnecessarily or unreasonably endanger the public or quasi-public investments in any governmental public utility facilities, services, or lands, or materially jeopardize or interfere with the function, efficiency, safety of, or the public's use or enjoyment of or access to such facilities, services, or lands. Machia pf. at 14.

**Public Health and Safety**

[30 V.S.A. § 248(b)(5)]

67. The proposed project will have no adverse effect on public safety. The proposed construction will be done consistent with sound engineering and construction practices and in compliance with all safety and health standards. Machia pf. at 10.

68. The proposed project shall be constructed in accordance with the requirements of the National Electrical Safety Code. Public Service Board Rule No. 3.500.

**Consistency with Resource Selection****Integrated Resource Plan**

[30 V.S.A. § 248(b)(6)]

69. The proposed project is consistent with the principles for resource selection expressed in Stowe's approved Integrated Resource Plan. This finding is supported by findings 12, 13 and 20, above, and 70-71, below.

70. The proposed project was evaluated using least-cost integrated resource planning including the societal test based on Stowe's avoided costs, life cycle costing techniques, and the externalities ordered in Public Service Board Docket No. 5270. Specifically, the proposed substation transformers will be selected based on the DPS criteria to ensure the lowest life cycle costs (*see* finding 20, above). Machia pf. at 7; exh. Joint-1.

71. SMR is implementing cost-effective energy efficiency at its facilities through audits, upgrading equipment, use of a special contract for snowmaking, and using energy efficient new construction standards. Machia pf. at 8-9.

**Compliance With Electric Energy Plan**

[30 V.S.A. § 248(b)(7)]

72. The DPS has determined, in a letter dated March 12, 2003, that the proposed project is consistent with the Vermont 20-Year Electric Plan, in accordance with 30 V.S.A. § 202(f), provided that Stowe's actions in this matter are consistent with its petition and testimony, and consistent with the MOU set forth between Stowe, the DPS, and the ANR in this docket. Exh. Stowe-3.

**Outstanding Water Resources**

[30 V.S.A. § 248(b)(8)]

73. No waters of the state that have been designated as Outstanding Resource Waters by the Vermont Water Resources Board will be affected by the proposed project. This finding is supported by finding 23, above.

### **Existing Transmission Facilities**

[30 V.S.A. § 248(b)(10)]

74. The proposed project will have no adverse affect on Vermont customers or utilities. The projected load resulting from the new Spruce Hamlet development can economically be served from the existing transmission facilities. The proposed project will not only keep the existing transmission system in operation, but will improve its reliability and performance. Machia pf. at 11-12.

75. VELCO is currently conducting a comprehensive planning study of the Lamoille County area. This relocation of facilities will not impact the VELCO study. Machia pf. at 12.

### **III. CONCLUSION**

Based upon all the above evidence, the retirement and removal of the existing 34.5 kV/4 kV Spruce Substation, the expansion of the existing 34.5 kV/12.47 kV Lodge Substation and the relocation of approximately 2400 feet of existing 34.5 kV transmission line:

- (a) will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, and the recommendations of the municipal legislative bodies;
- (b) is required to meet the need for present and future demand for service which could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy efficiency and land management measures;
- (c) will not adversely affect system stability and reliability;
- (d) will result in an economic benefit to the state and its residents;
- (e) will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. § 1424a(d) and § 6086(a)(1) through (8) and (9)(K);
- (f) is consistent with the principles of least-cost integrated planning;

- (g) is in compliance with the electric energy plan approved by the DPS under § 202 of Title 30 V.S.A.;
- (h) does not involve a facility affecting or located on any segment of the waters of the State that has been designated as outstanding resource waters by the Water Resources Board; and
- (i) can be served economically by existing or planned transmission facilities without undue adverse effect on Vermont utilities or customers.

To the extent these findings are inconsistent with any proposed findings, such proposed findings are denied.

A Proposal for Decision pursuant to 3 V.S.A. § 811 has been served upon the parties to this case.

Dated at Montpelier, Vermont, this 24<sup>th</sup> day of April, 2003.

s/Wayne L. Foster  
Wayne L. Foster  
Hearing Officer



#### **IV. BOARD DISCUSSION**

The DPS filed comments in response to the proposal for decision. Specifically, the DPS requests that the Board not adopt the sentence (and the accompanying footnote) that reads: "The Board's assessment of whether a particular project will have an 'undue' adverse effect based on these three standards will be significantly informed by the overall societal benefits of the project." The DPS contends that the sentence is not necessary to the outcome of this case and potentially has significant implications for how the Quechee test is applied going forward. The DPS further argues that it is problematic to include such a sentence in a decision on a settled case without the benefits of scrutiny and briefing by the parties.

We decline to adopt the DPS suggestion, and we do not delete the sentence and accompanying footnote from this decision. We have included similar language in many previous decisions related to the assessment of the environmental impacts of projects under criterion 5 of 30 V.S.A. § 248(b).<sup>5</sup> This assessment process is one that the Board has long used in balancing the costs and benefits of proposed electric utility infrastructure improvements. This concept was articulated by the Board as early as 1986 when the Board explained that projects with adverse environmental effects may still be approved under Section 248 if they are shown to be necessary for the public good.<sup>6</sup> The concept expressed by the sentence and footnote objected to by the DPS is a straightforward application of this general principle.

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5. *See e.g.*, Docket No. 6667, Petition of Central Vermont Public Service Corporation and Vermont Electric Power Company, Inc., pursuant to 30 V.S.A. § 248(j), for certificates of public good authorizing reconfiguration of 34.5 kV transmission facilities outside the East Fairfax Substation in Fairfax, Vermont, and related bulk transmission system improvements, Order dated August 28, 2002; Docket No. 6738, Petition of Vermont Electric Cooperative, Inc. for a certificate of public good authorizing replacement of two transformers at its substation in Johnson, Vermont, Order dated September 12, 2002 at 9; and Docket No. 6748, Petition of EMDC, LLC for a certificate of public good for installation of wind measurement towers and related equipment on East Mountain, in East Haven, Vermont, Order dated October 4, 2002 at 9-10.

6. Docket No. 4782, Petition of Central Vermont Public Service Corporation requesting a certificate of public good for the construction of a 46 kV transmission line from the Chester to Londonderry substations, dated April 10, 1986, at 40-41.

**V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Town of Stowe Electric Department's retirement and removal of the existing 34.5 kV/4kV Spruce Substation, the expansion of the existing 34.5 kV/12.47 kV Lodge Substation and the relocation of approximately 2400 feet of existing 34.5 kV transmission line, all located in the Town of Stowe, Vermont, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248, and a certificate of public good to that effect shall be issued.

2. The Memorandum of Understanding, filed by Stowe, the DPS and ANR on March 10, 2003, is accepted and approved. Compliance with all terms of the Memorandum of Understanding is required.

3. The Board has continuing jurisdiction to resolve any disputes arising under the above-referenced Memorandum of Understanding.

Dated at Montpelier, Vermont, this 5<sup>th</sup> day of May, 2003.

<u>s/Michael H. Dworkin</u>	)	
	)	
	)	PUBLIC SERVICE
<u>s/David C. Coen</u>	)	
	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: May 5, 2003

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*